

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SERGIO RODRIGUEZ, a/k/a Eric
Balderas,

Defendant.

No. 06-CR-4081-DEO

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On August 22, 2006, a 7 Count Indictment (Docket No. 4, 08/22/2006) was returned against several defendants. Count 1 only of that Indictment related to defendant Sergio Rodriguez, a/k/a Eric Balderas. Count 1 of that Indictment charges that between about 2004 and continuing through August 21, 2006, in the Northern District of Iowa and elsewhere, co-defendants and defendant Sergio Rodriguez, a/k/a Eric Balderas, did knowingly and unlawfully combine, conspire confederate, and agree with each other and with other persons, known and unknown to the Grand Jury:

1. To distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, within 1,000 feet of the

real property comprising a public playground, that is Grandview Park in Sioux City, Iowa, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A) and 860(a), and;

2. To distribute marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(D).

This was in violation of Title 21, United States Code, Section 846.

On December 8, 2006, defendant Sergio Rodriguez, a/k/a Eric Balderas, appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment. On the same date, United States Magistrate Judge Zoss filed a Report and Recommendation (Docket No. 38, 12/08/2006) in which he recommends that defendant Sergio Rodriguez, a/k/a Eric Balderas' guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant Sergio Rodriguez, a/k/a Eric Balderas' plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

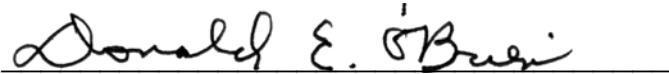
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that the this Court accepts Judge Zoss's Report and Recommendation (Docket No. 38), and accepts defendant's plea of guilty in this case to Count 1 of the Indictment filed on August 22, 2006 (Docket No. 4).

IT IS SO ORDERED this 6th day of March, 2007.


Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa